

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

TOWN OF CANTON,

Plaintiff,

v.

SELECT ENERGY, INC.,

Defendant.

C.A. 04 11383 RGS

U.S. DISTRICT COURT
DISTRICT OF MASS.

2005 FEB -2 P 1:17

FILED
IN CLERKS OFFICE

SECOND JOINT MOTION TO MODIFY SCHEDULING ORDER

Pursuant to Local Rule 16.1(G), the parties jointly request that the Court modify the Scheduling Order by postponing all events by an additional 60 days so that the parties can attempt to finalize and successfully complete their settlement discussions. In support of this Motion the parties jointly state as follows:

1. Since approximately early December the parties have been involved in sensitive and lengthy settlement discussions.
2. The parties and their counsel have had several productive meetings and/or discussions and may be, they believe, close to a final resolution of this dispute.
3. A meeting among the principals of the parties was scheduled for last week but was postponed until this week due to the major snow storm on January 23, 2005.
4. The parties now jointly seek to postpone by an additional 60 days all events on the Scheduling Order so that they can resolve this dispute by ADR without incurring additional legal expenses in connection with the lawsuit.
5. The parties jointly state that a further continuance of the Rule 26 disclosure deadline to April 1, 2005 and a postponement of all other deadlines in the Scheduling Order by 60 days will facilitate their settlement discussions and allow them to focus on

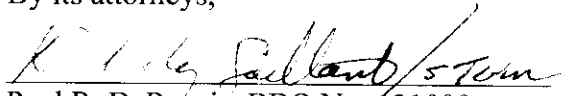
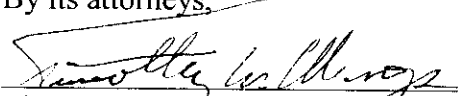
attempting to resolve this dispute.

6. Accordingly, the parties request that the Court modify the scheduling order as follows:
 - a. Initial disclosures shall be made by April 1, 2005;
 - b. Motions to amend pleadings shall be filed by May 31, 2005;
 - c. Fact depositions shall be completed by September 30, 2005;
 - d. Plaintiff's expert report shall be served by October 28, 2005;
 - e. Defendant's expert reports shall be served by December 9, 2005;
 - f. All discovery shall be completed by February 17, 2006; and
 - g. Dispositive motions shall be filed by March 1, 2006, with responses due 14 days thereafter.

WHEREFORE, the parties jointly request that this Court:

1. Modify the scheduling order as set forth above; and
2. Grant such further relief as justice requires.

Respectfully submitted,

<p>Plaintiff THE TOWN OF CANTON</p> <p>By its attorneys,</p> <p> Paul R. DeRensis, BBO No. 121000 Kimberly M. Saillant, BBO No. 548775 DEUTSCH WILLIAMS BROOKS DERENSIS & HOLLAND, P.C. 99 Summer Street Boston, MA 02110-1235 Telephone: (617) 951-2300</p>	<p>Defendant SELECT ENERGY, INC.</p> <p>By its attorneys,</p> <p> Timothy W. Mungovan, BBO No. 600702 NIXON PEABODY LLP 100 Summer Street Boston, MA 02110 Telephone: (617) 345-1000 Facsimile: (617) 345-1300</p>
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Dated: February 2, 2005